



PUBLIC NOTICE

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DA 13-1315
June 5, 2013

AUCTION OF UPPER AND LOWER PAGING BANDS LICENSES STATUS OF SHORT-FORM APPLICATIONS TO PARTICIPATE IN AUCTION 95

AU Docket No. 13-12

1. By this Public Notice, the Wireless Telecommunications Bureau (“Bureau”) announces the status of the 43 short-form applications received for Auction 95. This auction, which is scheduled to begin on Tuesday, July 16, 2013, will offer 5,905 licenses for lower and upper paging bands spectrum.¹ This Public Notice also provides other important information and reminders relating to the auction.

I. SHORT-FORM APPLICATIONS AND UPFRONT PAYMENTS

A. Status of Short-Form Applications

2. The short-form applications (FCC Forms 175) for Auction 95 have been reviewed for completeness and compliance with the Commission’s rules, and have been classified into the categories listed below.

Complete.....21 applications

Incomplete22 applications

3. **Complete Applications.** Attachment A to this Public Notice lists the short-form applications for Auction 95 that are accepted for filing and complete. Each of these applicants will become a qualified bidder upon receipt by the Commission of the required upfront payment by the June 13, 2013, deadline described below.² Each applicant must also maintain the accuracy of its short-form application as required by sections 1.65 and 1.2105 of the Commission’s rules.³

¹ See “Auction of Upper and Lower Paging Bands Licenses Scheduled for July 16, 2013; Notice and Filing Requirements, Minimum Opening Bids, Upfront Payments, and Other Procedures for Auction 95,” AU Docket No. 13-12, *Public Notice*, DA 13-535, 28 FCC Red 3132 (2013) (“*Auction 95 Procedures Public Notice*”). A summary of this public notice was published at 78 Fed. Reg. 24404 (April 25, 2013).

² See section I.B., below; see also 47 C.F.R. § 1.2106 (upfront payment rule).

³ 47 C.F.R. §§ 1.65, 1.2105(c). Sections 1.65(a) and 1.2105(c) of the Commission’s rules require each applicant in a competitive bidding proceeding to furnish additional or corrected information within five days of a significant occurrence, or to amend its short-form application no more than five days after the applicant becomes aware of the need for amendment. See Procedural Amendments to Commission Part 1 Competitive Bidding Rules, WT Docket

4. Designation of an application as complete indicates the applicant has provided the certifications and basic information concerning its qualifications as required by the Commission's competitive bidding rules for participation in the auction. Under the Commission's two-phased auction application process, a winning bidder must submit a long-form application after the close of the auction to demonstrate its qualifications to hold a Commission license and, if a bidding credit is requested, its eligibility for the bidding credit requested.⁴ Thus, a determination that a short-form application is complete and complies with the Commission's competitive bidding rules and policies is not determinative of an applicant's qualifications to hold a license or of entitlement to a bidding credit.⁵ In the event that an applicant is found unqualified to be a Commission licensee or is ineligible for claimed designated entity benefits, it will be liable for any obligations incurred as a result of its participation in the auction.⁶

5. **Incomplete Applications.** Attachment B to this Public Notice lists the short-form applications for Auction 95 that are accepted for filing but found to be incomplete or otherwise deficient.⁷ Each of these applicants will receive overnight correspondence indicating the information that is required to make its application complete. To become a qualified bidder, each applicant must make the required upfront payment and resubmit its application, having corrected any deficiencies, by the June 13, 2013,

No. 10-18, *Order*, FCC 10-4, 25 FCC Rcd 521, 523 ¶ 8 (2010) (“*Part 1 Procedural Amendments Order*”). See also 47 C.F.R. § 1.2105(c)(6) (any applicant that makes or receives a prohibited communication must report such communication in writing to the Commission no later than five business days after the communication occurs).

⁴ See 47 C.F.R. §§ 1.2107, 1.2109, 73.5005; see also Implementation of Section 309(j) of the Communications Act – Competitive Bidding, PP Docket No. 93-253, *Second Report and Order*, FCC 94-61, 9 FCC Rcd 2348, 2376-77 ¶¶ 163-168 (1994).

⁵ Three applicants, Skybridge Spectrum Foundation (“Skybridge”), V2G, LLC (“V2G”), and Environmental, LLC (“Environmental”), request that the Commission find that Skybridge is not affiliated with V2G and Environmental for the purposes of gross revenue disclosure, even though all three applicants share the same controlling interest, Warren Havens. Specifically, Skybridge requests that the revenues of the entities controlled by its president not be attributed to Skybridge because of Skybridge's status as a nonprofit corporation. V2G and Environmental similarly request that Skybridge's revenues not be attributed to both V2G and Environmental because of Skybridge's nonprofit status. Additionally, for the same reasons listed above, all three applicants request that the Commission find these applicants do not have “attributable material relationships” with each other. Each of these applicants discloses, in its short-form application, the revenues of the other two applicants and related entities as affiliates. Based on their disclosures and their certifications, the aggregate average gross revenues is below the \$3,000,000 limit for an applicant seeking a 35 percent bidding credit. Because these gross revenues are below this limit, we find applicants' requests moot. Moreover, each application states that “there is no need for the FCC to make a determination ... of the affiliation issue presented.” Finally, requests, such as these, concerning application qualifications and eligibility for designated entity status, are generally considered after the auction during the long-form application process.

⁶ See generally 47 C.F.R. § 1.2109.

⁷ Each of the three Havens-controlled applicants, Skybridge, V2G, and Environmental, states in its short-form application that it is a “former defaulter” within the meaning of section 1.2106(a) of the Commission's rules. See 47 C.F.R. § 1.2106(a) (a former defaulter may participate in an auction so long as it is otherwise qualified and submits an upfront payment that is fifty percent more than would otherwise be necessary). Each applicant nevertheless requests that the Commission find that a *de minimis* exception exists with respect to section 1.2106(a), but is unable to point to any Commission rule or decision establishing such exception. In the alternative, each applicant requests a waiver of the rule in the absence of a *de minimis* exception. Section 1.2106(a) contains no *de minimis* exception. The waiver request does not meet the standards for granting waivers in section 1.925 of the Commission's rules, 47 C.F.R. § 1.925. An order denying the waiver request will be released separately.

deadline.⁸ Each applicant must also maintain the accuracy of its short-form application as required by sections 1.65 and 1.2105 of the Commission's rules.⁹

B. Upfront Payments

6. Upfront payments and accompanying FCC Remittance Advice forms (FCC Form 159, Revised 2/03) for Auction 95 are due in the proper account at U.S. Bank, St. Louis, Missouri, **by 6:00 p.m. Eastern Time (ET) on Thursday, June 13, 2013**. In order to meet the Commission's upfront payment deadline, an applicant's payment must be credited to the Commission's account by the deadline. **Payments must be made by wire transfer only in accordance with the instructions provided in the Auction 95 Procedures Public Notice.**¹⁰ No other payment method is acceptable for this auction.¹¹ Each applicant is reminded to provide its FCC Registration Number ("FRN") on the FCC Form 159 and to submit the same FRN with all future payments for Auction 95. At least one hour before placing the order for the wire transfer (but on the same business day), each applicant must fax a completed FCC Form 159 to U.S. Bank at (314) 418-4232.

7. Each applicant is responsible for ensuring timely submission of its upfront payment and for timely filing of an accurate and complete FCC Remittance Advice Form (FCC Form 159). An applicant should coordinate with its financial institution well ahead of the due date regarding its wire transfer and allow sufficient time for the wire transfer to be initiated and completed prior to the deadline. The Commission has repeatedly cautioned auction participants about the importance of planning ahead to prepare for unforeseen last-minute difficulties in making payments by wire transfer.¹² Each applicant should obtain confirmation from its financial institution that its wire transfer was successful and from Commission staff that the applicant's payment has been received by the Commission in the proper account. For confirmation from the Commission, an applicant may contact Gail Glasser of the Office of Managing Director's Auctions Accounting Group at (202) 418-0578, or Theresa Meeks at (202) 418-2945. Detailed information regarding upfront payments, including additional requirements for "former defaulters," can be found in the *Auction 95 Procedures Public Notice* under section II.G. and section III.D.¹³

C. Short-Form Application Changes and Resubmission

8. Each applicant whose application for Auction 95 has been identified as incomplete must address defects in its application during the resubmission window, which is now open.¹⁴ Corrected applications must be filed **prior to 6:00 p.m. ET on Thursday, June 13, 2013**. This will be the only opportunity to cure application defects. Late resubmissions will not be accepted. An applicant that filed an application deemed to be incomplete or otherwise deficient, as noted in Attachment B to this Public

⁸ See 47 C.F.R. §§ 1.2105(b), 1.2106.

⁹ 47 C.F.R. §§ 1.65, 1.2105.

¹⁰ See *Auction 95 Procedures Public Notice*, 28 FCC Rcd at 3159-61 ¶¶ 109-14. A wire transfer is a transaction that is initiated through an applicant's bank. It authorizes the bank to wire funds from an applicant's account to the Commission's account.

¹¹ The Commission will not accept checks, credit cards, or automated clearing house ("ACH") payments.

¹² See, e.g., Letter to Lee G. Petro, Esq., from Margaret W. Wiener, Chief, Auctions and Spectrum Access Division, DA 10-1270, 25 FCC Rcd 9046 (2010); Letter to David G. O'Neil, Esq. from Margaret W. Wiener, Chief, Auctions and Spectrum Access Division, DA 08-622, 23 FCC Rcd 4765 (2008).

¹³ See *Auction 95 Procedures Public Notice*, 28 FCC Rcd at 3154-56 ¶¶ 86-91, 3159-62 ¶¶ 109-21.

¹⁴ 47 C.F.R. § 1.2105(b)(2).

Notice, must submit a timely and sufficient upfront payment before the Commission will review its resubmitted application. If an application is incomplete or otherwise deficient after the resubmission deadline has passed or if the required upfront payment is not made by the specified deadline, the applicant will not be permitted to participate in bidding.¹⁵

9. The Bureau is sending a letter to each applicant whose application has been deemed incomplete identifying the deficiencies found during the staff's initial review of the application. These deficiency letters are being sent via overnight delivery to the contact person and contact address listed on each incomplete application.

10. During this resubmission window, all applicants may make other minor changes as described below in more detail. We remind applicants that sections 1.65 and 1.2105 of the Commission's rules require an applicant to maintain the accuracy and completeness of information furnished in its pending short-form application.¹⁶ Each applicant should amend its short-form application to furnish additional or corrected information within five days of a significant occurrence, or no more than five days after the applicant becomes aware of the need for amendment.¹⁷ To the extent that changes may be made directly in the electronic Form 175 at the time of the amendment, an applicant must modify its short-form application electronically.¹⁸ An applicant seeking to report changes outside of the resubmission window must submit a letter briefly summarizing the changes by e-mail to the attention of Margaret Wiener, Chief, Auctions and Spectrum Access Division, at the following address: auction95@fcc.gov. Questions about changes should be directed to the Auctions and Spectrum Access Division at (202) 418-0660.

11. The electronic Form 175 will not permit an applicant to make certain modifications to its application (e.g., change the applicant's name, change their license selections, change the certifying official, or claim eligibility for a higher percentage of bidding credit).¹⁹ Administrative and minor changes can be made, including, for example, deletion and addition of authorized bidders (to a maximum of three), revision of addresses and telephone numbers of the applicants and their contact persons, and changes to responsible party. While changes can be made to ownership and agreement information,²⁰ we remind each applicant that any application changes must comply with the Commission's rules, which prohibit, among other things, changes in ownership that would constitute an assignment or transfer of control, as well as changes in ownership or agreements that would constitute violations of section

¹⁵ Each of these applicants will retain its status as an applicant in Auction 95 and will remain subject to the Commission's rules prohibiting certain communications, 47 C.F.R. §§ 1.2105(c), but will not be eligible to bid.

¹⁶ 47 C.F.R. §§ 1.65, 1.2105.

¹⁷ *Id.*

¹⁸ During the resubmission phase, applicants will have electronic access to update the following application fields: jurisdiction of formation/country of citizenship, applicant address, responsible party information, responsible party address, contact information, contact address, authorized bidder information, bidding option (telephonic or electronic), agreement information, and ownership information. During all phases of the application process, applicants have electronic access to make certain administrative changes including updates to: applicant address, responsible party address, contact information, contact address, and bidding option (telephonic or electronic).

¹⁹ 47 C.F.R. § 1.2105(b)(2). The Commission's electronic Form 175 is designed to prevent inadvertent major changes by applicants. Therefore, applicants are not permitted to make changes to the following data fields after the short-form filing deadline: applicant name, legal classification, certifier, bidding credit, and license selection.

²⁰ For more information on making administrative changes to an existing application, see "Minor Modifications to Short-Form Applications" and "Maintaining Current Information in Short-Form Applications" in the *Auction 95 Procedures Public Notice*, 28 FCC Rcd at 3156-58 ¶¶ 93-99 and Attachment C at 3196-97.

1.2105(c).²¹ If any application is changed to effect a major amendment, such as a change in control,²² the applicant will be ineligible to bid in the auction.²³

II. OTHER IMPORTANT AUCTION 95 INFORMATION

12. **Qualified Bidders.** Approximately three weeks after the upfront payment deadline, following Commission review of resubmitted short-form applications and the correlation of payments and applications, a public notice listing all applicants qualified to bid in Auction 95 will be released. The same public notice will also include bidding schedules for both the mock auction and the first day of bidding.

13. **Due Diligence.** Potential bidders are solely responsible for investigating and evaluating all technical and marketplace factors that may have a bearing on the value of the licenses being offered in Auction 95. The Commission makes no representations or warranties about the use of this spectrum for particular services. We strongly encourage potential bidders to conduct their own research prior to the beginning of bidding in order to determine the existence of pending proceedings, pleadings, applications, or authorizations that might affect their decisions regarding participation in the auction.²⁴ Additionally, a potential bidder should perform technical analyses and/or refresh any previous analyses to assure itself that, should it be a winning bidder for any Auction 95 license, it will be able to build and operate facilities that will fully comply with the Commission's current technical and legal requirements. Participants in this auction should continue such research throughout the auction. For further details regarding due diligence, please refer to the *Auction 95 Procedures Public Notice*, section I.C.4.²⁵

14. **Prohibition of Certain Communications.** The Bureau reminds applicants that section 1.2105(c) of the Commission's rules prohibits applicants for any of the same or overlapping geographic license areas from communicating with each other about bids, bidding strategies, or settlements, which may include communications regarding the post-auction market structure, unless they have identified each other on their short-form applications as parties with which they have entered into agreements under section 1.2105(a)(2)(viii).²⁶ The prohibition on certain communications applies to applicants that selected licenses in the same or overlapping markets regardless of the frequency.²⁷ Therefore, in Auction 95, for example, the rule would prohibit an applicant bidding for a 35 MHz EA license and another applicant bidding for a 929 MHz MEA license that cover any of the same geographic area from communicating absent a disclosed agreement.²⁸

²¹ See 47 C.F.R. § 1.2105(b) – (c).

²² See Letter to Koch Broadcasting Corp. and Birch Broadcasting Corp. from Margaret W. Wiener, Chief, Auctions & Spectrum Access Div. and Peter H. Doyle, Chief, Audio Div., DA 06-38, 21 FCC Rcd 147 (2006) (dismissing short-form application due to major amendment changing control of applicant).

²³ See 47 C.F.R. § 1.2105(b)(2).

²⁴ See also 47 C.F.R. § 1.1202(d)(1) Note 1.

²⁵ See *Auction 95 Procedures Public Notice*, 28 FCC Rcd at 3144-45 ¶¶ 39-47.

²⁶ 47 C.F.R. §§ 1.2105(a)(2)(viii), 1.2105(c)(1). See also Amendment of Part 1 of the Commission's Rules — Competitive Bidding Procedures, WT Docket No. 97-82, *Seventh Report and Order*, FCC 01-270, 16 FCC Rcd 17546 (2001) (“*Part 1 Seventh Report and Order*”); *Order on Reconsideration of the Third Report and Order, Fifth Report and Order, and Fourth Further Notice of Proposed Rule Making*, FCC 00-274, 15 FCC Rcd 15293, 15297-98 ¶¶ 7-8 (2000).

²⁷ Additional guidance on the requirements of section 1.2105(c) may be found in the *Auction 95 Procedures Public Notice*. See *Auction 95 Procedures Public Notice*, 28 FCC Rcd at 3136-42 ¶¶ 11-33.

²⁸ *Part 1 Seventh Report and Order*, 16 FCC Rcd at 17549 n.12.

15. This prohibition took effect as of the short-form application filing deadline, which for Auction 95 was May 9, 2013, at 6:00 p.m. ET, and extends until the post-auction down payment deadline, which will be announced in a public notice released shortly following close of bidding.²⁹ **The prohibition applies to all applicants regardless of whether such applicants become qualified bidders, submit an upfront payment, or actually bid.**³⁰

16. We also emphasize that, for purposes of this prohibition, an “applicant” includes all controlling interests of the entity submitting a short-form application to participate in the auction — including all officers and directors of that entity and all holders of partnership and other ownership interests and any stock interest amounting to 10 percent or more of the entity, or outstanding stock, or outstanding voting stock of the entity submitting a short-form application.³¹ Thus, for example, a violation of section 1.2105(c) of the Commission’s rules could occur when an individual serves as an officer and/or director for two or more competing applicants that have not disclosed an agreement on both short-form applications.³² Therefore, applicants should continue to take precautionary steps to prevent prohibited communications between any of the entities or persons described covered by the prohibition.³³

17. If parties had agreed in principle on all material terms of a bidding agreement(s), those parties must have been identified on the short-form application under section 1.2105(c), even if the agreement had not been reduced to writing. If parties had not agreed in principle by the short-form application filing deadline on May 9, 2013, an applicant should not have included the names of those parties on its application, and must not have continued negotiations.³⁴

²⁹ 47 C.F.R. § 1.2105(c)(1).

³⁰ For example, the Commission imposed a forfeiture in the amount of \$100,000 for violation of section 1.2105(c), even though the applicant never made an upfront payment for the auction and was not listed as a qualified bidder. See *Northeast Communications of Wisconsin, Inc., Forfeiture Order*, DA 04-3027, 19 FCC Rcd 18635 (2004). The Commission subsequently reduced the amount of the forfeiture to \$75,000 due to the parties’ history of compliance with Commission rules. See *Star Wireless, LLC and Northeast Communications of Wisconsin, Inc., Order on Review*, FCC 07-80, 22 FCC Rcd 8943 (2007), *review denied*, *Star Wireless, LLC v. FCC*, 522 F.3d 469 (D.C. Cir. 2008) (section 1.2105(c) applies to applicants regardless of whether they are qualified to bid). The United States District Court for the Eastern District of Wisconsin granted summary judgment in favor of the United States pursuant to an effort by the Department of Justice to enforce the forfeiture. *United States v. Northeast Communications of Wis., Inc., Decision and Order*, Case No. 07-C-715, 608 F. Supp.2d 1049 (D. Wis. 2008). See also Letter to Robert Pettit, from Margaret W. Wiener, Chief, Auctions and Industry Analysis Div., DA 00-2905, 16 FCC Rcd 10080 (2000) (declining to exempt an applicant’s controlling interest from coverage by the rule, even though the applicant never made an upfront payment for the auction and was not listed as a qualified bidder).

³¹ 47 C.F.R. § 1.2105(c)(7)(i).

³² See *Lotus Communications Corp., Order*, DA 08-1364, 23 FCC Rcd 9107 (2008); Letter to Colby M. May from Barbara A. Kreisman, Chief, Video Div., and Margaret W. Wiener, Chief, Auctions & Spectrum Access Div., DA 05-2445, 20 FCC Rcd 14648 (2005) (finding apparent violation of 47 C.F.R. § 1.2105(c) where applicants with mutually exclusive applications reported sharing same individual as an officer and director and reported no agreement).

³³ See *Application of Nevada Wireless, Memorandum Opinion and Order*, DA 98-1137, 13 FCC Rcd 11973, 11977-78 ¶¶ 11-13 (1998). The Bureau cautions, however, that the mere existence of precautionary measures will not outweigh specific evidence of prohibited communications, nor will it preclude the initiation of an investigation when warranted. *Id.* at 11978 ¶ 13.

³⁴ See *Wireless Telecommunications Bureau Clarifies Spectrum Auction Anti-Collusion Rules, Public Notice*, DA 95-2244, 11 FCC Rcd 9645 (1995).

18. **Anonymous Bidding.** We remind applicants that, under the anonymous bidding procedures in effect for Auction 95, the Commission is withholding from public release, until after the close of the auction, any information that may indicate specific applicants' interests in the auction – including, among other things, license selections, upfront payments and eligibility information – and the identities of bidders placing bids or taking other bidding-related actions. Accordingly, communication with other applicants or public disclosure of such non-public information may violate the Commission's anonymous bidding procedures and the rule prohibiting certain communications, section 1.2105(c) of the Commission's rules.³⁵

19. This prohibition would include communication of any such non-public information by an applicant to the public, financial analysts, or the press, as well as any such communication by an applicant to another applicant for one or more licenses covering geographic areas also covered by the applicant's license selections on its short-form application.³⁶ Examples of communications raising concern, given the anonymous bidding procedures in effect for Auction 95, would include an applicant's statement to the press about its upfront payment or bidding eligibility, and an applicant's statement to the press that it is or is not interested in bidding in the auction.

20. Because anonymous bidding procedures are in place for Auction 95, applicants' license selections will not be disclosed publicly until after the auction closes. Therefore, the Bureau is sending each applicant a letter identifying those applicants that have applied for licenses in any of the same or overlapping geographic areas as those selected by the applicant.³⁷

21. **Disclosure Obligations and Possible Sanctions.** Sections 1.65 and 1.2105(c) of the Commission's rules require each auction applicant to maintain the accuracy and completeness of information furnished in its pending application and to provide additional or corrected information within five days of a significant occurrence, or amend its short-form application no more than five days after the applicant becomes aware of the need for amendment.³⁸ In addition, section 1.2105(c)(6) requires each auction applicant to report a prohibited discussion or disclosure regarding bids or bidding strategy to the Commission in writing immediately, but in no case later than five business days after the communication occurs, even if the communication does not result in an agreement or understanding regarding bids or bidding strategy that must be reported under section 1.65.³⁹ The Commission has clarified that each applicant's obligation to report any such communication continues beyond the five-day period after the communication is made, even if the report is not made within the five-day period.⁴⁰

³⁵ For purposes of section 1.2105(c), the term "applicant" includes all controlling interests, all parties with ownership interests greater than ten percent and all officers and directors of the applicant. 47 C.F.R. § 1.2105(c)(7).

³⁶ The Commission has long expressed the concern that applicants also should use caution in their dealings with other parties, such as members of the press, financial analysts, or others who might become a conduit for the communication of non-public information relating to auctions, such as bids and bidding strategies. Cf. "Wireless Telecommunications Bureau Responds to Questions About the Local Multipoint Distribution Service Auction, *Public Notice*," DA 98-37, 13 FCC Rcd 341, 347-8 (1998) ("Public statements can give rise to collusion concerns. This has occurred in the antitrust context, where certain public statements can support other evidence which tends to indicate the existence of a conspiracy.").

³⁷ See *Auction 95 Procedures Public Notice*, 28 FCC Rcd at 3165-66 ¶ 17.

³⁸ 47 C.F.R. §§ 1.65, 1.2105(c). See also *Auction 95 Procedures Public Notice*, 28 FCC Rcd at 3140-41 ¶¶ 26-28.

³⁹ 47 C.F.R. § 1.2105(c)(6); see also *Part 1 Seventh Report and Order*, 16 FCC Rcd at 17555 ¶ 17.

⁴⁰ See *Service Rules for the 698-746, 747-762 and 777-792 MHz Bands*, WT Docket No. 06-150, *Second Report and Order*, FCC 07-132, 22 FCC Rcd 15289, 15395 ¶¶ 285-86 (2007).

22. **Reporting Prohibited Communications.** A party reporting a communication pursuant to sections 1.65 or 1.2105(c) must take care to ensure that any such report of a prohibited communication does not itself give rise to a violation of section 1.2105(c). For example, a party's report of a prohibited communication could violate the rule by communicating prohibited information to other applicants through the use of Commission filing procedures that would allow such materials to be made available for public inspection.

23. The Commission amended section 1.2105(c) to minimize the risk of inadvertent dissemination of information by requiring any party to file only a single report and to file that report with Commission personnel expressly charged with administering the Commission's auctions.⁴¹ Pursuant to the amended rule, any report required by section 1.2105(c) must be filed consistent with the instructions set forth in the *Auction 95 Procedures Public Notice*.⁴² Any such report must be filed immediately with the Chief of the Auctions and Spectrum Access Division and either submitted by e-mail to auction95@fcc.gov or delivered to the following address: Margaret W. Wiener, Chief, Auctions and Spectrum Access Division, Wireless Telecommunications Bureau, Federal Communications Commission, 445 12th Street, SW, Room 6423, Washington, DC 20554. Any party submitting such a report should include a cover sheet to avoid the inadvertent dissemination of information contained in the report.

24. A party seeking to report such a prohibited communication should consider submitting its report with a request that the report or portions of the submission be withheld from public inspection.⁴³ Any such party is also encouraged to consult with the Auctions and Spectrum Access Division staff if it has any questions about the procedures for submitting such reports.⁴⁴ The *Auction 95 Procedures Public Notice* provides additional guidance on procedures for submitting application-related information.⁴⁵

25. Each applicant that is a winning bidder will be required to disclose in its long-form application the specific terms, conditions, and parties involved in any bidding consortia, joint ventures, partnerships, or other agreements, understandings or arrangements entered into relating to the competitive bidding process.⁴⁶ Any applicant found to have violated section 1.2105(c) of the Commission's rules may be subject to sanctions.⁴⁷ In addition, we remind applicants that they are subject to the antitrust laws, which are designed to prevent anti-competitive behavior in the marketplace. If an applicant is found to have violated the antitrust laws in connection with its participation in the competitive bidding process, it may be subject to forfeiture of its upfront payment, down payment, or full bid amount, and may be prohibited from participating in future auctions.⁴⁸

⁴¹ *Part 1 Procedural Amendments Order*, 25 FCC Rcd at 522 ¶ 4.

⁴² *Auction 95 Procedures Public Notice*, 28 FCC Rcd at 3141 ¶¶ 29-31.

⁴³ See 47 C.F.R. § 0.459 (procedures for requesting that materials or information submitted to the Commission be withheld from public inspection). If an applicant requests confidential treatment of a document, the cover page of the filing must prominently display that the applicant is seeking confidential treatment for that document. For example, a filing might include a cover page stamped with "Request for Confidential Treatment Attached" or "Not for Public Inspection." Any such request must cover all of the material to which the request applies. See 47 C.F.R. § 0.459(a).

⁴⁴ See section III. "Contact Information" below.

⁴⁵ See *Auction 95 Procedures Public Notice*, 28 FCC Rcd at 3157-58 ¶ 99.

⁴⁶ See 47 C.F.R. § 1.2107(d).

⁴⁷ See 47 C.F.R. §§ 1.2105(c), 1.2107(d), and 1.2109(d).

⁴⁸ 47 C.F.R. § 1.2109(d).

26. **Ex Parte Rule.** Applicants should also be aware that the Commission has generally treated mutually exclusive short-form applications to participate in the auctions process as exempt proceedings and, therefore, not subject to the *ex parte* prohibitions that pertain to restricted proceedings.⁴⁹

27. **Mock Auction.** All applicants found to be qualified bidders will be eligible to participate in a mock auction on Friday, July 12, 2013. The Bureau encourages all qualified bidders to take advantage of this opportunity to become familiar with the FCC's Integrated Spectrum Auction System ("ISAS" or "FCC Auction System"). In the public notice announcing the qualified bidders, the Bureau will announce the bidding schedule for the mock auction. The mock auction will be conducted over the Internet, and telephonic bidding will be available as well.

28. **Electronic Bidding.** Applicants are reminded that qualified bidders are eligible to bid either electronically or telephonically and should specify their bidding preference on the FCC Form 175, if they have not already done so.

29. Bidders can access the FCC Auction System over the Internet. The following software is required to use the FCC Integrated Spectrum Auction System:

- Web Browser, either of the following is recommended:
 - Microsoft® Internet Explorer 7.0, with either Microsoft VM or Java Plug-In.
 - Mozilla® Firefox® 3.5 or later, with Java Plug-In.

To obtain the Java Plug-In, point your browser at <http://www.oracle.com/technetwork/java/javase/downloads/index.html> and click the Download JRE button under *Java Platform, Standard Edition*.

- PDF Viewer: Adobe Acrobat Reader 5.0 or higher (available at <http://www.adobe.com>)
- Minimum Screen Resolution: 1024 x 768

30. Currently, the Apple® Mac OS® is not supported.

31. **Post-Auction Procedures.** Shortly after bidding has ended, the Commission will issue a public notice declaring the auction closed, identifying the winning bidders, and establishing the deadlines for submitting down payments and final payments.⁵⁰ Winning bidders will be subject to the more extensive reporting requirements contained in the Commission's Part 1 ownership disclosure rules and must submit electronically a properly-completed long-form application (FCC Form 601) and ownership disclosure information report (FCC Form 602).⁵¹ Further filing instructions will be provided to auction winners at the close of the auction.

⁴⁹ See "Commission Announces that Mutually Exclusive 'Short-Form' Applications (Form 175) to Participate in Competitive Bidding Process ('Auctions') Are Treated as Exempt for *Ex Parte* Purposes," *Public Notice*, FCC 94-283, 9 FCC Rcd 6760 (1994). See also 47 C.F.R. § 1.1202(d)(1) Note 1.

⁵⁰ For more details on these payments and procedures, see *Auction 95 Procedures Public Notice*, 28 FCC Rcd at 3176-79 ¶¶ 195-210.

⁵¹ See 47 C.F.R. §§ 1.2107, 1.2112(b)(2).

III. CONTACT INFORMATION

32. For specific questions about an applicant's incomplete status or its application deficiencies, the applicant should contact the staff reviewer identified in the correspondence sent to the applicant by overnight mail.

33. For further information concerning Auction 95, contact:

General Auction Information

General Auction Questions
Auction Process and Procedures

FCC Auctions Hotline

(888) 225-5322, option two; or
(717) 338-2868

Auction 95 Process and Procedures

Auctions and Spectrum Access Division

(202) 418-0660
Debbie Smith (Analyst)
Lisa Stover (Project Manager)

Auction 95 Legal Information

Auction Rules, Policies, Regulations, including
Reports of section 1.2105(c) Violations and
Application Modifications

Auctions and Spectrum Access Division

(202) 418-0660
Howard Davenport (Attorney)

Licensing Information

Service Rules, Policies, Regulations
Licensing Issues, Engineering Issues
Due Diligence, Incumbency Issues

Mobility Division

(202) 418-0620
Kathy Harris (Attorney)
Keith Harper (Engineer)

Technical Support

Electronic Filing
FCC Auction System (Hardware/Software
Issues)

FCC Auctions Technical Support Hotline

(877) 480-3201, option nine; or (202) 414-1250
(202) 414-1255 (TTY)
Hours of service: 8:00 a.m. – 6:00 p.m. ET,
Monday through Friday

Auction Payments

Instructions for Wiring Upfront Payments and
Completion of Form 159

Auctions Accounting Group

(202) 418-0578
Gail Glasser
(202) 418-2945
Theresa Meeks

34. To request materials in accessible formats (Braille, large print, electronic files, audio format) for people with disabilities, send an e-mail to fcc504@fcc.gov or call the Consumer and Governmental Affairs Bureau at (202) 418-0530 or (202) 418-0432 (TTY).

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